



(BILLING CODE: 4810-02)

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Proposed Information Collection; Comment Request; Renewal of Suspicious Activity Reporting Requirements by Brokers or Dealers in Securities and Futures Commission Merchants and Introducing Brokers in Commodities.

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on the renewal of an information collection requirement for the recordkeeping and reporting of suspicious activities by brokers or dealers in securities and futures commission merchants (FCMs) and introducing brokers in commodities (IBs).¹ The Bank Secrecy Act Suspicious Activity Report, (“BSAR”)² will be used by these entities to report suspicious activity to FinCEN. This request for comments also covers 31 CFR 1023.320, relating to reports by brokers or dealers in securities of suspicious transactions, and 31 CFR 1026.320, reports by futures commission merchants and introducing brokers in commodities of suspicious transactions. This request for comments is being made pursuant to the Paperwork Reduction Act (“PRA”) of 1995, Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER.]

¹ The federal functional regulator for the securities industry is the U.S. Securities and Exchange Commission (“SEC”) and, for the futures industry, it is the Commodity Futures Trading Commission (“CFTC”).

² The BSAR was approved by the Office of Management and Budget (“OMB”) under control number 1506-0065. The BSAR is a single report that replaced previous individual SAR forms for depository institutions, casinos, money services businesses, securities brokers or dealers, mutual funds, futures commission merchants, introducing brokers in commodities, and insurance companies,

ADDRESSES: Written comments should be submitted to: Policy Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, “Attention: PRA Comments—SAR Requirements-Securities and Futures Industries.” Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.gov, again with a caption, in the body of the text, “Attention: PRA Comments—SAR Requirements-Securities and Futures Industry.”

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905-5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800-767-2825 or e-mail frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

The Bank Secrecy Act (“BSA”), Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.³

Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C.

³ Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

5318(g), to require financial institutions to report suspicious transactions. The authority of the Secretary of the Treasury to administer the BSA has been delegated to the Director of FinCEN. The final Broker-Dealer SAR rule can be found at 31 CFR 1023.320. The final FCM-IB SAR rule can be found at 31 CFR 1026.320.

The information collected is required to be provided pursuant to 31 U.S.C. 5318(g), 31 CFR 1023.320 and 31 CFR 1026.320. This information will be made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel, and to the registered securities and futures associations and national exchanges (so-called self-regulatory organizations) for use in official performance of their duties, for regulatory purposes, and in investigations and proceedings involving domestic and international money laundering, terrorist financing, tax violations, fraud, and other financial crimes.

Broker-dealers, futures commission merchants, and introducing brokers in commodities required to report suspicious transactions, or reporting such transactions voluntarily, will be subject to the protection from liability contained in 31 U.S.C. 5318(g)(3) and to the prohibition contained in 31 U.S.C. 5318(g)(2) against notifying any person involved in the transaction that a suspicious activity report has been filed.

Title: Suspicious Activity Reporting by Brokers or Dealers in Securities and Futures Commission Merchants and Introducing Brokers in Commodities (31 CFR 1023.320, and 31 CFR 1026.320).

OMB Number: 1506-0019.

Abstract: This notice renews the SAR reporting and recordkeeping requirements for the above mentioned entities. Additionally, this notice updates the title of the information

collection under this OMB control number to specifically define the entities addressed under this number.

Form Number: FinCEN Form 111 (BSAR).⁴

Type of Review: Renewal and update of a currently approved information collection.

Affected public: Businesses or other for-profit institutions.

Frequency: As required.

Estimated Reporting and Recordkeeping Burden: 1 hour.⁵

Estimated Number of Respondents: 8,300.

Estimated Total Annual Responses: 8,300.

Estimated Total Annual Reporting and Recordkeeping Burden: 8,300 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the

⁴ See footnote 2.

⁵ The reporting and recordkeeping burden of the regulations (31 CFR 1023.320 and 1026.320) is reflected in the burden for the BSAR as approved under 1506-0065. This listed burden is assigned to maintain control number 1506-0019 active as a reporting requirement for 31 CFR 1023.320 and 1026.320.

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and
(e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: February 13, 2015.

Jennifer Shasky Calvery
Director,
Financial Crimes Enforcement Network

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